



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,536	11/13/2001	Dougan H. Clarke	1.022.01	2678

7590 03/18/2004

MALLOY & MALLOY, P.A.
2800 S.W. Third Avenue
Historic Coral Way
Miami, FL 33129

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,536

Applicant(s)

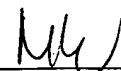
CLARKE, DOUGAN H.

Examiner

Winnie Yip

Art Unit

3637



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-10,12-14,18,19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6,7,12-14,18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 8-10, 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Part II DETAILED ACTION

This office action is in response to applicant's amendment filed on December 8, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4, 11, 15-17 and 20 have been cancelled, and claims 2-3, 6-7, 12-14, and 18-19 are withdrawn from further consideration as being read on the non-elected specie.

Response to Arguments

1. Applicant's arguments with respect to the objection to specification for the "final product" as shown in Fig. 1, under 35 U.S.C. 112, first paragraph, has been fully considered and is deemed persuasive. Therefore, the rejection to claims 5 and 10 under 35 U.S.C. 112, first paragraph, of the last office letter has been withdrawn. However, the rejection to claim 9 is maintained as set forth below.

2. Applicant's arguments with respect to rejection under 35 U.S.C. 102/103 of last office action mailed June 3, 2003 have been considered and is deemed persuasive. The rejections have been withdrawn. However, new grounds of rejections under Double Patenting are set forth below.

Drawings

3. The drawings were received on December 8, 2003. These drawings are disapproved by the examiner because the newly proposed Fig. 17 only shows the rigid bolt member 15' extending downwardly into the pole, but does not show any connection between the bolt member 15' and the top end of the pole (14). It does not clear how the secondary hub member (30)

Art Unit: 3637

being rotatably connected to the top of the pole 14 as claimed since the bolt member 15' does not operatively connected to the pole.

4. The drawings, therefore, stand objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of how "a rigid bolt member extending downwardly and into said at least partially hollow interior of said pole member such that said secondary hub member is capable of rotating about said longitudinal axis of said pole member" (claim 9) must be shown or the feature canceled from the claim. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention. The specification fails to clearly define how the main and secondary hub members (18, 30) are rotated about a longitudinal axis of the pole member (12) when a rigid bolt member 15' is extending downwardly from the secondary hub member into the top of the partially hollow interior pole 14 as shown in the newly submitted drawing Fig. 17. Clarification is requested.

Claim Rejections - 35 USC § 112

6. Claim 9 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 10, 12-14 and 21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, and 7 of U.S. Patent No. 6,386,214. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both recite same structural elements such as a pole member, a main hub member, a secondary hub member, supporting structure includes ribs and struts, and pulley system including pulleys, bracket members, cams, and a line member in an alternative arrangement.

9. Claims 5 and 8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 6,314,976. Although

Art Unit: 3637

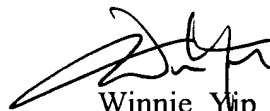
the conflicting claims are not identical, they are not patentably distinct from each other because they both recite same structural elements such as a pole member, a main hub member, a secondary hub member having a central cavity, supporting structure includes ribs and struts, and a pin providing means for maintaining hub member in position along the pole member in an alternative arrangement.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
March 12, 004